

REMARKS

I. Amendments

By this amendment, claim 8 has been amended.

This amendment adds no new matter to the specification. Support for this amendment is found in the specification and claims as filed.

II. Acknowledgement of Allowable Claims

Applicants acknowledge the Examiner's indication of the allowability of claims 1-5, 7-11, 14, 15, 17, 22, 43 and 44.

III. Discussion of the Rejection of Claim 12, Twelfth Compound Under 35 U.S.C. Sec. 112, First Paragraph

Claim 12 has been rejected under 35 U.S.C. Sec. 112, first paragraph as allegedly not enabled with respect to the twelfth compound recited. Applicants respectfully traverse this rejection.

Applicants submit that those skilled in the art of synthetic organic chemistry, understanding chemical nomenclature would find the twelfth species enabled by the specification.

As an initial matter, Applicants note that claim 12 concludes with the phrase "and salts thereof". Therefore Applicants do not understand how Example 90 does not support the species in contention, as the Examiner has indicated as her first point, if she meant that the example was not supportive because it is a salt. Applicants make this statement for the record because they are uncertain why the Examiner has chosen to discount Example 90.

As to the Examiner's second point, the Examiner agrees that there is support for the terms benzyl and methyl as two components of the R¹ hydrocarbon group recited in claim 1 and diethylamino as an optional substituent for R¹ as recited in claim 1; but then somehow still

refuses to find the twelfth species within the scope of the genus or positively described in the specification.

As to why this curious conclusion has been reached, (with reference to the previously made arguments and previously submitted Figure) Applicants suspect that the Examiner may not realize that a benzyl group is a phenyl ring with a methyl substituent.

As stated above, the Examiner appears to agree that there is support for the benzyl, methyl and diethylamino portions of the compound as indicated in Example 90. But since the nomenclature used for this portion of the molecule is N,N-diethylaminomethyl)phenyl]methyl], the Examiner appears to be confusedly searching for support for two different methyl groups. In fact, the phenyl]methyl] part of the molecule is the benzyl portion of the molecule, while the methyl term attached as “diethylaminomethyl” accounts for the methyl and diethyl amino portions of the molecule as shown in the previously submitted Appendix A.

The Examiner is kindly asked to look again more closely at the Applicants’ previously submitted evidence before maintaining the rejection.

Moreover, additional support for the species in contention may be found on page 31, line 27 – page 32, line 16 (especially page 32, lines 4-5) and on page 37, line 13- page 38, line 1. That portion of the specification may be consulted if the Examiner would like to split up the right-hand end of Example 90 in a different way in order to understand the basis for support of the twelfth species in independent claim 12. With reference to the teaching of that portion of the specification, if one defines the R¹ hydrocarbon group of claim 1 as a benzyl, then one can find support for N,N-diethylaminomethyl as a substituent of R¹ under the option “di-C₁₋₆ alkylamino-C₁₋₆ alkyl”.

Applicants have demonstrated support for the twelfth species with a specific example, and by description in the specification two different ways. Applicants are hard pressed to understand what more could be required of them.

Therefore, Applicants respectfully request withdrawal of the Sec. 112, first paragraph rejection.

IV. Discussion of the Rejection of Claim 12, Twelfth Compound under 35 U.S.C. Sec. 101

Claim 12 has been rejected under 35 U.S.C. Sec. 101 as allegedly unsupported with respect to the twelfth compound recited.

Applicants hereby incorporate their argument made above in Sec. III, which is equally applicable to overcome the Sec. 101 rejection.

Applicants respectfully request withdrawal of the 35 U.S.C. Sec. 101 rejection.

V. Discussion of the Rejection under 35 U.S.C. Sec. 112, Second Paragraph of Claim 8

Claim 8 has been rejected under 35 U.S.C. Sec. 112, second paragraph as allegedly vague for not containing a period.

By this amendment, amendment, Applicants have added the period. Applicants additionally note that claim 8 as originally filed did contain the proper punctuation. Therefore Applicants respectfully request withdrawal of the 35 U.S.C. Sec. 112, second paragraph rejection of claim 8.

VI. Other Matters

Applicants respectfully wish to remind the Examiner that a Petition to modify inventorship by deleting inventor Sasaki was submitted on July 11, 2002.

VII. Conclusion

Reconsideration of the claims as amended and allowance is requested. Should the Examiner believe that a conference with Applicants' attorney would advance prosecution of this application, the Examiner is respectfully requested to call Applicants' attorney at (847) 383-3391.

Respectfully submitted,

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